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8                   **UNITED STATES DISTRICT COURT**  
9                   EASTERN DISTRICT OF CALIFORNIA

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11     BILLY RAY JOHNSON,  
12                   Petitioner,  
13                v.  
14     STUART SHERMAN,  
15                   Respondent.

Case No. 1:21-cv-01313-EPG-HC  
ORDER GRANTING PETITIONER LEAVE  
TO FILE AMENDED PETITION  
ORDER DIRECTING CLERK OF COURT  
TO MAIL PETITIONER BLANK § 2254  
HABEAS FORMS

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17     Petitioner Billy Ray Johnson is a state prisoner proceeding *pro se* with a petition for writ  
18 of habeas corpus pursuant to 28 U.S.C. § 2254.

19                   **I.**

20                   **DISCUSSION**

21     The Rules Governing Section 2254 Cases (“Habeas Rules”) require preliminary review  
22 of a habeas petition and allows a district court to dismiss a petition before the respondent is  
23 ordered to file a response, if it “plainly appears from the petition and any attached exhibits that  
24 the petitioner is not entitled to relief in the district court.” Rule 4, Rules Governing Section 2254  
25 Cases in the United States District Courts, 28 U.S.C. foll. § 2254; see also McFarland v. Scott,  
26 512 U.S. 849, 856 (1994).

27     Habeas Rule 2(c)(5) states that the habeas petition must “be signed under penalty of  
28 perjury by the petitioner.” Here, Petitioner did not sign the petition under penalty of perjury.

1 (ECF No. 1). Accordingly, the Court will grant Petitioner the opportunity to file an amended  
2 petition, and Petitioner must sign the amended petition under penalty of perjury.

3 **II.**

4 **ORDER**

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. Petitioner is GRANTED **THIRTY (30) days** from the date of service of this order in  
7 which to file an amended petition that is signed under penalty of perjury; and  
8
2. The Clerk of Court is DIRECTED to send Petitioner blank § 2254 habeas forms.

9 Petitioner is forewarned that failure to follow this order may result in a recommendation  
10 for dismissal of the petition pursuant to Federal Rule of Civil Procedure 41(b) (a petitioner's  
11 failure to prosecute or to comply with a court order may result in a dismissal of the action).

12 IT IS SO ORDERED.

13 Dated: September 7, 2021

14 /s/ *Eric P. Groj*

15 UNITED STATES MAGISTRATE JUDGE

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